

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAWANE ARTHUR MALLETT,

Defendant.

No. 2:02-cr-00416-GEB

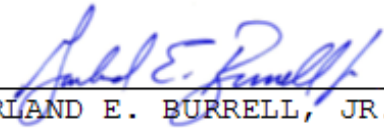
ORDER

On December 14, 2015, federal prisoner Dawane Mallett filed, in pro per, a motion in this closed criminal case in which he seeks to "vacate [his] conviction and set aside judgment[,] " arguing that he is entitled to immunity under the Diplomatic Relations Act, 22 U.S.C. § 254d. (Def.'s Mot., ECF No. 372.) Mallett's immunity claim is premised on his averred status as "Grand Governor of the Moorish Science Temple of America." (Id., ECF page 7 of 76.)

Mallett has not shown that he is authorized to move for dismissal of his closed criminal case or that § 254d applies to his federal conviction or sentence. Section 254d prescribes: "Any action or proceeding brought against an individual who is entitled to immunity with respect to such action or proceeding under the Vienna Convention on Diplomatic Relations . . . shall be dismissed." This Act "premise[s] diplomatic immunity upon

1 recognition by the receiving state. That is to say, neither
2 [Mallett] nor anyone else is able unilaterally to assert
3 diplomatic immunity. Such status only exists when there is
4 recognition of another state's sovereignty by the Department of
5 State." United States v. Lumumba, 741 F.2d 12, 15 (2d Cir. 1984).
6 Mallett has not shown that the State Department has "recognized
7 the [Moorish Science Temple of America,]" or that "it has []ever
8 granted immunity status to [Defendant]." Id. Therefore, Mallett's
9 motion, (ECF No. 372), is DENIED.

10 Dated: December 22, 2015

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14 GARIAND E. BURRELL, JR.
15 Senior United States District Judge
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